IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7413 OF 2007
W i t h
CIVIL APPLICATION NO.2814 OF 2007

Rajesham N. Bhandari .. .. Petitioner
v/s.
1. State of Maharashtra & ors. .. Respondents

Mr.R.K. Mendadkar for petitioner.

Mr.Girish Paryani h/f Mr.R.S.Apte for respondent No.3.

Mr.S.R. Nargolkar, AGP for respondent Nos.1, 2, 4 & 5.

CORAM : SMT.RANJANA DESAI &
SMT.ROSHAN DALVI, JJ.
Dated : 3rd December 2007

P.C. :

1. Petitioner has challenged in this writ petition judgment and order dated 26th September 2007 passed by respondent No.2-Divisional Caste Certificate Scrutiny Committee, Konkan Division, Mumbai, ("Caste Scrutiny Committee" for short), invalidating the petitioner's caste certificate to the effect that he belongs to Padmashali, Special Backward Category. The petitioner has, *inter alia*, contended that no

hearing was given to him and that impugned order has been signed by Mr.R.B. Bhilavekar, Member, who was not present at the hearing of the matter on 14.9.2007.

2. Affidavit-in-reply has been filed by one Mr.Chintamani Vasant Nandedkar, Member Secretary and Research Officer, Divisional Caste Certificate Scrutiny Committee, Mumbai Division, Mumbai and it is stated in the said affidavit that enquiry was initiated on the basis of a complaint filed by one Mr.S.R. Taware. It is further stated that the complainant had unconditionally withdrawn his complaint. The affidavit further goes on to say that it was urged before the committee that the committee should arrive at its findings on the basis of the documents placed before it. The petitioner submitted his application along with other documents and the case was closed for orders and hence, the petitioner cannot contend that no hearing was given to him. It is also stated that personal hearing was not held because the petitioner had not prayed for it. The affidavit, however, does not specifically deal with contention that the impugned order is signed by

Mr.Bhilavekar, a Member of the committee, who was not present at the hearing of the matter.

3. It is, however, necessary for us to examine this aspect because learned AGP Mr.Nargolkar, on instructions from Mr. Bhilavekar, Member, who is present in the court, has stated that though it is the case of the respondents that the petitioner never asked for personal hearing, in the interest of justice and since the petitioner was not heard, the matter may be remanded to the Caste Scrutiny Committee so that a personal hearing can be given to the petitioner. In the circumstances, we are of the opinion that the course suggested by the learned AGP will meet the ends of justice. Hence, the following order:-

(i) Impugned judgment and order dated 26th September 2007 passed by respondent No.2-Caste Scrutiny Committee is set aside. The matter is remanded to the Caste Scrutiny Committee.

(ii) The Caste Scrutiny Committee is directed to give a personal hearing to the petitioner and all concerned,

if necessary.

(iii) The Caste Scrutiny Committee shall dispose of the matter within a period of six weeks from the date of receipt of this order by it. The petitioner shall co-operate with the Caste Scrutiny Committee for expeditious disposal of his case.

4. Mr.Mendadkar appearing for the petitioner states that the petitioner will appear before the Caste Scrutiny Committee on 14th December 2007.

5. We record the statement of petitioner's counsel that the petitioner shall not press the challenge to Section 5B of Bombay Provincial Municipal Corporation Act, 1949.

6. Petition is disposed of in the aforestated terms.

7. Needless to say that Civil Applications, if any, also stand disposed of.

(SMT.RANJANA DESAI, J.)

(SMT.ROSHAN DALVI, J.)